

WISCONSIN DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES



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STATE OF WISCONSIN
BEFORE THE MEDICAL EXAMINING BOARD

IN THE MATTER OF DISCIPLINARY :
PROCEEDINGS AGAINST :
 : FINAL DECISION AND ORDER
MICHAEL S. KIM, M.D., :
RESPONDENT. : **ORDER 0008313**

Division of Legal Services and Compliance Case No. 22 MED 104

The parties to this action for the purpose of Wis. Stat. § 227.53 are:

Michael S. Kim, M.D.
Oshkosh, WI 54904

Wisconsin Medical Examining Board
P.O. Box 8366
Madison, WI 53708-8366

Division of Legal Services and Compliance
Department of Safety and Professional Services
P.O. Box 7190
Madison, WI 53707-7190

The parties in this matter agree to the terms and conditions of the attached Stipulation as the final disposition of this matter, subject to the approval of the Medical Examining Board (Board). The Board has reviewed this Stipulation and considers it acceptable.

Accordingly, the Board in this matter adopts the attached Stipulation and makes the following Findings of Fact, Conclusions of Law, and Order.

FINDINGS OF FACT

1. Respondent Michael S. Kim, M.D., (Year of Birth 1960) is licensed in the state of Wisconsin to practice medicine and surgery, having license number 38972-20, first issued on July 25, 1997, with registration current through October 31, 2023. Respondent's most recent address on file with the Wisconsin Department of Safety and Professional Services (Department) is in Oshkosh, WI 54904.

2. At all times relevant to this proceeding, Respondent practiced as a Board-certified surgeon with a specialty in colon and rectal surgery at a medical center located in Oshkosh, Wisconsin (Center).

3. On March 30, 2021, Doctor A (an OB/GYN) performed a hysteroscopy and dilation and curettage on Patient B (female born in 1954) to obtain a diagnostic sample for pathological testing.

4. Post-operatively, Patient B was cold and clammy and experienced increased lower abdominal pain, abnormal abdominal distension, low urine output, and passed blood clots, and was admitted to the Center for observation. Respondent's condition worsened that evening, and septic shock was suspected.

5. At approximately 10:26 p.m. on March 30, 2021, a stat CT scan was ordered by the on-call OB/GYN (Doctor C) which showed "Collection of gas and debris along the right and superior aspects of the uterus and small amount of free intraperitoneal air and fluid, compatible with the history of uterine perforation. The rectum courses along this collection and rectal perforation cannot be excluded."

6. Doctor C requested a consult with the on-call surgeon (Respondent) at 12:48 a.m. on March 31, 2021. A note from Doctor C at 1:10 a.m. on March 31, 2021, states that "patient now in septic shock", that Doctor C had discussed the patient and CT findings with Respondent by telephone, and that Respondent recommended "medical stabilization and broad-spectrum antibiotics" at that time, and to consider surgical evaluation if the patient failed to improve.

7. Despite being aware of the CT scan findings consistent with rectal perforation and Patient B's clinical condition and diagnosis of sepsis, Respondent did not report to the Center and see Patient B in person at the time he provided consult to Doctor C on or about 1:10 a.m. on March 31, 2021, and did not recommend Patient B be taken back to surgery at that time.

8. Patient A was transferred to the ICU.

9. At approximately 4:00 a.m. on March 31, 2021, Respondent reported to the Center and evaluated Patient B, noting in his Surgical Consult note at 4:22 a.m. that he "was asked to see the patient ... regarding sepsis and ab pain". At that time, Respondent determined exploratory laparoscopy surgery was necessary due to concern for possible bowel perforation and because Patient B's clinical condition was most likely due to sepsis.

10. Respondent and Doctor A proceeded with laparoscopy surgery which revealed that Patient A had sustained a posterior full-thickness uterine wall injury and a perforation of the anterior wall of the rectum during Doctor A's prior procedure.

11. On April 1, 2021, Patient A expired due to severe septic shock.

12. In resolution of this matter, Respondent consents to the entry of the following Conclusions of Law and Order.

CONCLUSIONS OF LAW

1. The Board has jurisdiction to act in this matter pursuant to Wis. Stat. § 448.02(3) and is authorized to enter into the attached Stipulation pursuant to Wis. Stat. § 227.44(5).

2. Based on the Findings of Fact, Respondent engaged in unprofessional conduct as defined in Wis. Admin. Code § Med 10.03(2)(b) by departing from or failing to conform to the standard of minimally competent medical practice which creates an unacceptable risk of harm to a patient or the public whether or not the act or omission resulted in actual harm to any person.

3. As a result of the above conduct, Respondent is subject to discipline pursuant to Wis. Stat. § 448.02(3).

ORDER

1. The attached Stipulation is accepted.

2. Respondent's is REPRIMANDED.

3. Within ninety (90) days from the date of this Order, Respondent shall pay COSTS of this matter in the amount of \$1,445.00.

4. Any requests, petitions, payments of costs (made payable to Department of Safety and Professional Services), and other information required by this Order shall be submitted to:

Department Monitor
Division of Legal Services and Compliance
Department of Safety and Professional Services
P.O. Box 7190, Madison, WI 53707-7190
Telephone (608) 266-2112; Fax (608) 266-2264
DSPSMonitoring@wisconsin.gov

Respondent may also submit this information online at: <https://dspsmonitoring.wi.gov>.

5. In the event Respondent violates any term of this Order, Respondent's license and registration (no. 38972-20), or Respondent's right to renew his license and registration, may, in the discretion of the Board or its designee, be SUSPENDED, without further notice or hearing, until Respondent has complied with the terms of the Order. The Board may, in addition and/or in the alternative refer any violation of this Order to the Division of Legal Services and Compliance for further investigation and action.

6. This Order is effective on the date of its signing.

WISCONSIN MEDICAL EXAMINING BOARD

By: Stephen A. Wacker, MD
A Member of the Board

12/21/22
Date

STATE OF WISCONSIN
BEFORE THE MEDICAL EXAMINING BOARD

IN THE MATTER OF DISCIPLINARY
PROCEEDINGS AGAINST

MICHAEL S. KIM, M.D.,
RESPONDENT.

:
:
:
:
:

STIPULATION

ORDER 0008313

Division of Legal Services and Compliance Case No. 22 MED 104

Respondent Michael S. Kim, M.D., and the Division of Legal Services and Compliance, Department of Safety and Professional Services, stipulate as follows:

1. This Stipulation is entered into as a result of a pending investigation by the Division of Legal Services and Compliance. Respondent consents to the resolution of this investigation by Stipulation.

2. Respondent understands that by signing this Stipulation, Respondent voluntarily and knowingly waives the following rights:

- the right to a hearing on the allegations against Respondent, at which time the State has the burden of proving those allegations by a preponderance of the evidence;
- the right to confront and cross-examine the witnesses against Respondent;
- the right to call witnesses on Respondent's behalf and to compel their attendance by subpoena;
- the right to testify on Respondent's own behalf;
- the right to file objections to any proposed decision and to present briefs or oral arguments to the officials who are to render the final decision;
- the right to petition for rehearing; and
- all other applicable rights afforded to Respondent under the United States Constitution, the Wisconsin Constitution, the Wisconsin Statutes, the Wisconsin Administrative Code, and other provisions of state or federal law.

3. Respondent is aware of Respondent's right to seek legal representation and has been provided an opportunity to obtain legal counsel before signing this Stipulation. Respondent is represented by Attorney Lori Gendelman.

4. Respondent agrees to the adoption of the attached Final Decision and Order by the Wisconsin Medical Examining Board (Board). The parties to the Stipulation consent to the entry of the attached Final Decision and Order without further notice, pleading, appearance or consent of the parties. Respondent waives all rights to any appeal of the Board's order, if adopted in the form as attached.

5. If the terms of this Stipulation are not acceptable to the Board, the parties shall not be bound by the contents of this Stipulation, and the matter shall then be returned to the Division of Legal Services and Compliance for further proceedings. In the event that the Stipulation is not accepted by the Board, the parties agree not to contend that the Board has been prejudiced or biased in any manner by the consideration of this attempted resolution.

6. The parties to this Stipulation agree that the attorney or other agent for the Division of Legal Services and Compliance and any member of the Board ever assigned as an advisor in this investigation may appear before the Board in open or closed session, without the presence of Respondent, for purposes of speaking in support of this agreement and answering questions that any member of the Board may have in connection with deliberations on the Stipulation. Additionally, any such advisor may vote on whether the Board should accept this Stipulation and issue the attached Final Decision and Order.

7. Respondent is informed that should the Board adopt this Stipulation, the Board's Final Decision and Order is a public record and will be published in accordance with standard Department procedure.

8. Respondent is further informed that should the Board adopt this Stipulation, the Board's Final Decision and Order will be reported as required by the National Practitioner Databank (NPDB) Guidebook and as otherwise required by any licensure compact or any other state or federal law.

9. The Division of Legal Services and Compliance joins Respondent in recommending the Board adopt this Stipulation and issue the attached Final Decision and Order.

Michael S Kim, MD

Michael S. Kim, M.D., Respondent
Oshkosh, WI 54904
License No. 38972-20

11/11/2022

Date



Lori Gendelman, Attorney for Respondent
Otjen Law Firm, S.C.
20935 Swenson Drive, Suite 310
Waukesha, WI 53186

11/17/22

Date

Carley Peich Kiesling

Carley Peich Kiesling, Prosecuting Attorney
Department of Safety and Professional Services
Division of Legal Services and Compliance
P.O. Box 7190
Madison, WI 53707-7190

11/21/2022

Date